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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,782	01/02/2002	Ronald A. Katz	228/052	7708

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EXAMINER

WOO, STELLA L

ART UNIT PAPER NUMBER

2643

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/037,782	Applicant(s) KATZ, RONALD A.	
	Examiner Stella L. Woo	Art Unit 2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 26-42, 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBruyn in view of Szlam et al. (US 4,797,911, hereinafter "Szlam") for the same reasons given in the last Office action and repeated below.

DeBruyn discloses a method for controlling voice-data communications for use with a communication facility (telephone exchange 3) including remote terminals (telephone sets 1), the method comprising the steps of:

cuing select one of said remote terminals in accordance with a select format to prompt selective actuation (telephone reply apparatus 8 prompts a caller using a specific language format to enter a Lotto number; page 3, lines 24-26; page 4, line 23 – page 5, line 6);

selectively receiving said responsive signals (entered Lotto number is received and stored in memory 9; page 3, lines 26-28; page 5, lines 6-11);

testing at least certain of the digital data signals to determine whether callers have exceeded a limit on use (converting and confirming apparatus 11 determines whether the phone number of the caller has already been recorded for the current Lotto game; page 5, lines 11-21; page 3, line 28 – page 4, line 5); and

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confirming via a voice generator (data entered by the caller is stored in memory 9 and repeated in spoken form to the caller by converting and confirming apparatus 11; page 4, lines 5-8; page 5, lines 22-26).

DeBruyn differs from claims 26 and 31 in that it does not provide for the step of transferring calls to at least one live operation station. However, Szlam teaches the desirability of transferring a call to an operator terminal (col. 12, lines 9-66), in which both data entered by the caller (telephone number or account number; col. 13, lines 18-22) and data stored for the caller (customer account information previously stored in the mainframe 16; col. 12, lines 39-42) is displayed upon the screen of the operator terminal (col. 13, lines 22-29). It would have been obvious to an artisan of ordinary skill to incorporate such use of an operator terminal, as taught by Szlam, within the method of DeBruyn in order to provide human assistance as well as to collect more detailed information regarding the caller.

Regarding claims 27 and 32-33, Szlam teaches an ANI decoder 10a24 for receiving calling number identification data signals (col. 12, lines 29-39).

Regarding claims 28, 34-35, in DeBruyn, a caller's language format is determined based on the caller's telephone number (page 4, lines 23-26).

Regarding claims 29, 40, 45, Szlam provides for recording audio signals via a message recorder for later playback to an operator terminal (col. 17, lines 27-46).

Regarding claims 30 and 41, the messages can be in analog or digital form (col. 17, lines 32-34).

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Regarding claims 36-38, in DeBruyn, an individual caller, as identified by the calling telephone number, is permitted a certain number of stakes per week (page 3, line 28 – page 4, line 5; page 5, lines 11-20).

Regarding claim 39, it is well known in the gaming art to restrict the number of entries such that it would have been obvious to an artisan of ordinary skill to isolate a subset of callers by accepting a first set of callers for participation in the Lotto game of DeBruyn.

Regarding claim 42, in DeBruyn, data entered by the caller is stored in memory 9 and repeated in spoken form to the caller by converting and confirming apparatus 11; page 4, lines 5-8; page 5, lines 22-26).

3. Claims 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of DeBruyn and Szlam, as applied to claim 41 above, and further in view of Entenmann et al. (US 4,996,705, hereinafter “Entenmann”) for the same reasons given in the last Office action and repeated below.

The combination of DeBruyn and Szlam differs from claim 43 in that it does not specify providing callers with a computer generated number. However, Entenmann discloses a lottery system in which a caller is provided with the option of receiving a computer generated lottery number as an alternative to entering a lottery number (col. 3, lines 8-14) such that it would have been obvious to an artisan of ordinary skill to incorporate the option of providing a computer generated lottery number, as taught by Entenmann, within the combination of DeBruyn and Szlam in order to enhance the lottery game experience by providing more options for the caller.

Regarding claim 44, in Entenmann, a caller can provide a credit card number as a billing option (col. 2, lines 63-65).

Response to Arguments

4. Applicant's arguments filed December 22, 2004 have been fully considered but they are not persuasive.

Applicant argues that “DeBruyn avoids the need for operators or operator terminals” and “teaches away from the claims herein, all of which involve ‘at least one live operator station.’” However, Szlam was relied upon to teach the desirability of involving an operator station in a voice-data communication. Szlam teaches that calls can either be handled without operator intervention (col. 13, lines 36-39; col. 14, lines 24-27), as in DeBruyn, or handled with operator assistance after certain information has been entered by the caller (col. 12, lines 55-66; col. 13, lines 22-36). It would have been obvious to an artisan of ordinary skill modify the automated system of DeBruyn to allow callers to receive operator assistance, as taught by Szlam, in order to provide some callers with human assistance while still providing partial or fully automated call handling via DTMF decoding and voice recognition.

Applicant argues that “in the Szlam system, the audio and DTMF signals are not the result of selective prompting.” However, this argument is irrelevant to the rejection, which relied upon DeBruyn to teach selectively receiving an entered Lotto number (digital data signals). The claim language includes the alternative “or” such that the claim requirement is met by the provision of any one of digital data signals, digital control signals, or audio signals.

Applicant further argues that “neither reference discloses ‘prompting for selective actuation by callers of said voice communication means and said digital input means...’” However, as discussed in the above rejection, a telephone reply apparatus 8 prompts a caller using a specific language format to enter a Lotto number (page 3, lines 24-26; page 4, line 23 –

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page 5, line 6). The caller responds with a telephone set 1 which is capable of voice communication (via the telephone handset) or digital input (via telephone keypad).

Regarding the step of “transferring approved calls to at least one live operator station,” Szlam allows for operator intervention at various points in the handling of a call, including after it has been determined that a calling party telephone number corresponds with the telephone number of an existing client (col. 12, lines 55-66) such that the combination of DeBruyn and Szlam would provide for transferring a call to an operator after has been determined that the calling party telephone number corresponds with a caller who is eligible to participate in the Lotto game.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

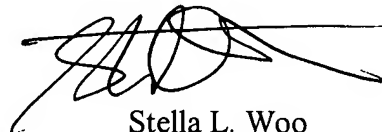
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (571) 272-7512. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'Stella L. Woo', with a stylized, flowing script.

Stella L. Woo
Primary Examiner
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